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The petition was denied because it was argued that the examiner was correct in asserting lack of unity because the independent claim, the conjugate, allegedly does not avoid the prior art. DEC 27 2000
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The decision disregarded applicants' arguments that the restriction was improper, by characterizing applicants' arguments as only showing that the conjugate was not "anticipated" by the prior art. The decision stated that: "Although applicants appear to argue that the reference does not anticipate the prior art, Annex B does not require anticipation, merely that the claimed invention not avoid the prior art. This could be because of lack of novelty or lack of inventive step." The Petition was therefore denied because applicants allegedly did not properly show that the conjugate avoids the prior art (both novelty or lack of inventive step). RECEIVED
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It is a misunderstanding and misinterpretation of the arguments in the petition to say that they do not argue that the conjugate avoids the prior art (both novelty or lack of inventive step). As argued in the petition, the prior art Buelow paper does not anticipate or render obvious (under both novelty or lack of inventive step) the subject matter of the independent claim (the conjugate). For example, page 6, line 12 of the petition states: "Buelow does not in any manner teach, disclose or suggest [the claimed conjugate]". This is not merely an argument that the conjugate is not anticipated. It is clearly arguing that the conjugate avoids the prior art under both novelty and lack of inventive step (see further, for example, page 7, lines 5-6 ("Indeed, the actual data presented in Buelow makes it clear that it does not teach or predict anything about [the claimed conjugate]."), and lines 11-12 ("Hence, there is no way that one skilled in the art could gain any information from Buelow about which residues...")).

Applicants respectfully reiterate that, for the reasons carefully argued and supported in the petition, Buelow does not teach, disclose, suggest, predict, anticipate, render obvious, destroy

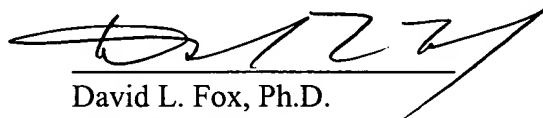
novelty, or destroy inventive step of the conjugate of the independent claim. Accordingly, the examiner's determination of lack of unity was in error as the conjugate as set forth in claim 14 does avoid the prior art.

Furthermore, in the petition, applicants provide detailed reasons and arguments as to why the conjugate avoids the prior art. The decision does not address any of these detailed reasons and arguments. The entirety of the decision directed to the merits is only a single paragraph, at the bottom of the second page. Applicants request that the detailed arguments and reasons in the petition be properly addressed.

Reconsideration of applicants' petition is therefore respectfully requested, followed by reconsideration of the Petition Decision, and subsequent withdrawal of restriction requirement. This will properly allow for examination of the subject matter of conjugate and method claims to be examined on the merits in this application.

Please charge any fees due to the standing account of Fulbright & Jaworski L.L.P., Deposit No. 06-2375/09804877.

Respectfully submitted,



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Date: December 18, 2000

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